

## § 121.1002

(i) The applicant for assistance; and  
(ii) The SBA official with authority to take final action on the assistance requested. That official may also request the appropriate Government Contracting Area Office to determine whether affiliation exists between an applicant for financial assistance and one or more other entities for purposes of determining whether the applicant would exceed the loan limit amount imposed by § 120.151 of this chapter.

(2) For SBA's 8(a) BD program:

(i) Concerning initial or continued 8(a) BD eligibility, the following entities may request a formal size determination:

(A) The 8(a) BD applicant concern or Participant; or

(B) The Assistant Administrator of the Division of Program Certification and Eligibility or the Associate Administrator for 8(a)BD.

(ii) Concerning individual sole source 8(a) contract awards, the following entities may request a formal size determination:

(A) The Participant nominated for award of the particular sole source contract;

(B) The SBA program official with authority to execute the 8(a) contract; or

(C) The SBA District Director in the district office that services the Participant, or the Associate Administrator for 8(a)BD.

(3) For SBA's Certificate of Competency Program, the following entities may request a formal size determination:

(i) The offeror who has applied for a COC; and

(ii) The responsible SBA Government Contracting Area Director or the Associate Administrator for Government Contracting.

(4) For SBA's sale or lease of government property, the following entities may request a formal size determination:

(i) The responsible SBA Government Contracting Area Director or the Associate Administrator for Government Contracting; and

(ii) Authorized officials of other Federal agencies administering a property sales program.

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(5) For eligibility to pay reduced patent fees, the following entities may request a formal size determination:

(i) The applicant for the reduced patent fees; and

(ii) The Patent and Trademark Office.

(6) For purposes of determining compliance with small business requirements of another Government agency program not otherwise specified in this section, an official with authority to administer the program involved may request a formal size determination.

[61 FR 3286, Jan. 31, 1996, as amended at 63 FR 31907, June 11, 1998; 63 FR 35739, June 30, 1998]

### § 121.1002 Who makes a formal size determination?

The responsible Government Contracting Area Director or designee makes all formal size determinations in response to either a size protest or a request for a formal size determination, with the exception of size determinations for purposes of the Disaster Loan Program, which will be made by the Disaster Area Office Director or designee responsible for the area in which the disaster occurred.

### § 121.1003 Where should a size protest be filed?

A protest involving a government procurement or sale must be filed with the contracting officer for the procurement or sale, who must forward the protest to the SBA Government Contracting Area Office serving the area in which the headquarters of the protested concern is located, regardless of the location of any parent company or affiliates.

### § 121.1004 What time limits apply to size protests?

(a) *Protests by entities other than contracting officers or SBA.* (1) *Non-negotiated procurement or sale.* A protest must be received by the contracting officer prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening.

(2) *Negotiated procurement.* A protest must be received by the contracting officer prior to the close of business on the 5th day, exclusive of Saturdays,